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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,400	07/27/2001	Robert W. Jeffway JR.	09148-004001	7101

26171 7590 04/30/2003

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EXAMINER

CAPRON, AARON J

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 04/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Y.K

Office Action Summary	Application No.		Applicant(s)	
	09/915,400		JEFFWAY ET AL.	
	Examiner		Art Unit	
	Aaron J. Capron		3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 19-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claim 19-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Inventions II-IV, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Applicant's election without traverse of claims 1-18 in Paper No. 7 is acknowledged.

This application contains claims 19-26 drawn to an invention nonelected without traverse in Paper No. 7. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Information Disclosure Statement

The examiner's consideration under MPEP 609 of the non-English language references cited on submitted Information Disclosure Statement is limited to the extent described for the cited non-English documents and any corresponding translations therein only so far as the particular portion respectively translated and without reference to a complete invention thereof. It is further noted that the translations are not attested as to their accuracy.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 13, there is insufficient antecedent basis for the limitation "the card reader."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8-11, 14 rejected under 35 U.S.C. 102(e) as being clearly anticipated by Lebensfeld et al. (U.S. Patent No. 6,261,180; hereafter "Lebensfeld").

Lebensfeld discloses an electronic toy gun that emits encoded IR beams, a trigger to activate the beam, a game data input device and an internal processor configured to receive game data input. The detector can determine the different codes. The coded information can include the source (player identification) of each hit that is registered. Lebensfeld further includes a feedback device that uses an LCD display to display corresponding player information (7:51, 8:37-9:8) and an audio device to include sound effects and speech phrases (3:28-31).

Claims 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Lebensfeld.

Lebensfeld discloses that the game data input device comprises a card reader wherein the card reader is configured to read a card that includes game data, the card being a PC-card (11:16-23).

Claims 7 and 15-18 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lebensfeld.

Lebensfeld discloses the characteristics of the game character can include one or both of a weapon beam ranges and weapon beam width (6:44-7:8). In the alternative, Lebensfeld discloses that Survivor Shot toy included that the gun could be adjustable to project light for long or short ranges (1:46-50). One would be motivated to combine the adjustable IR range into Lebensfeld's gun in order to change the difficulty of the game for more/less advanced players. This would allow further interest in the game and therefore, could generate extra revenue for upgrades to the game. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate adjustable IR range into Lebensfeld gaming system in order to change the difficulty of the game for more/less advanced players.

Lebensfeld discloses that the infrared beam is registered as a hit based upon strength and based on the nature of the weapon, and/or range of the weapon, and/or vulnerability (whether the light detector detects the light emitter).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Lebensfeld et al. (U.S. Patent No. 6,302,796) discloses a player programmable toy for a shooting game.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc
April 28, 2003



MARK SAGER
PRIMARY EXAMINER